

Staff Report

Pg. 16 – There would be land use incompatibility associated with long-term noise sources and night illumination on the Project including from the Community Park, the latter on those Newport Crest residences immediately contiguous to the Project site.

This impact is considered significant and unavoidable.

Newport Banning Ranch EIR Responses to Comments

Letter from Cathy Malkemus

Page 3-756:

4.12.8 Environmental Impacts; Impact Analysis - page 4.12-27

The document states that noise barriers could be installed around the second floor balconies of Newport Crest homes and that this measure is feasible. Is the applicant suggesting that we close in our open balconies with walls??

- **Specifically, what "barriers" is the DEIR referring to and who determines if they are feasible??**

Newport Banning Ranch EIR Responses to Comments

Response to Letter from Cathy Malkemus

Page 3-759:

Noise barriers for balconies are generally transparent glass or Lucite-like material, often hinged to allow the occupant to choose an open or closed position.

Inverse Condemnation

Under Cal. Const., art. I, § 19, there is liability for any physical injury to realty proximately caused by a public improvement as deliberately designed and constructed, whether or not the injury was foreseeable and in the absence of fault by the public entity. *Ullery v. County of Contra Costa* (1988) 202 Cal. App. 3d 562

An action in inverse condemnation against the state will lie for property owners abutting a highway arising from property damage due to dust, debris, and highway noise. *Harding v. State of California ex rel Dept. of Transportation* (1984) 159 Cal. App. 3d 359.